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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OREGON NATURAL DESERT
ASSOCIATION; CENTER FOR
BIOLOGICAL DIVERSITY,

Plaintiffs - Appellees,

v.

D. ROBERT LOHN, Regional
Administrator, Natl Marine Fisheries
Service; NATIONAL MARINE
FISHERIES SERVICES CARLOS M.
GUTIERREZ, Secretary, U.S. Department
of Commerce; DAVID R. ALLEN,
Regional Director, U.S. Fish & Wildlife
Service; GARY S. MILLER, Field
Supervisor, U.S. Fish Wildlife Service;
DIRK KEMPTHORNE, Secretary, US
Department of Interior; UNITED STATES
FISH AND WILDLIFE SERVICE,

Defendants,

and

ROBERT L. BROOKS; KENNETH R.
BROOKS; CRUM FARMING, INC.;
JEROME P. MCELLIGOTT; MATTHEW

No. 07-35700

D.C. No. CV-06-00946-GMK

ORDER *

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

C. MCELLIGOTT; MCELLIGOTT
JOINT TRUST; BUD MCGIRR;
VAUGHAN RANCH, INC.; ROCKY
BLUFF RANCH; PETER MCELLIGOTT,

Defendant-intervenors -
Appellants.

Appeal from the United States District Court
for the District of Oregon
Garr M. King, District Judge, Presiding

Argued and Submitted December 10, 2008
Portland, Oregon

Before: O'SCANNLAIN, GRABER, and BYBEE, Circuit Judges.

The underlying dispute in this case is moot, including the Appellants' challenge to the denial of their motion to intervene. We dismiss the appeal and remand to the district court with instructions to vacate its opinion of April 17, 2007.

Each party shall bear its own costs on appeal.

Appeal DISMISSED and case REMANDED with instructions.